

CHAPTER 104
HOTEL AND MOTEL—
FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST
[Prior to 12/17/86, Revenue Department[730]]

701—104.1(422A) Returns, time for filing. On the quarterly sales tax return, every retailer shall report the gross sales subject to the hotel and motel tax for the entire quarter, listing allowable deductions and figuring tax for the entire quarter. The information required for the computation of the hotel and motel tax liability shall be separate from that required for the computation of the retail sales tax liability. Such information and computation must be stated and computed separately, even though the total tax liability may be paid with a single remittance.

The quarterly reports are due on the last day of the month following the end of the calendar quarter during which the tax is collected. If a person is required to collect the hotel and motel tax and file a monthly deposit for retail sales tax purposes, such monthly deposit should not include the hotel and motel tax collected during the period covered by the deposit.

When the due date falls on a Saturday, Sunday or legal holiday, the return is due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mail, properly addressed and postage paid, and postmarked on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Sales and Use Tax Processing, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10412, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 421.14, 422.51, 422.52 and 422A.1.

701—104.2(422A) Remittances. The correct amount of tax collected and due shall accompany the forms prescribed by the department. The name, address and sales tax permit number of the sender and amount of tax for the quarterly remittance shall be stated. Every return shall be signed and dated. Reporting forms and a self-addressed return envelope shall be furnished by the department to the retailer; and, when feasible, every retailer shall use them when completing and mailing the return and remittance. All remittances shall be made payable to the Treasurer of the State of Iowa.

This rule is intended to implement Iowa Code sections 422.51, 422.52 and 422A.1.

701—104.3(422A) Permits. No permit other than an Iowa sales tax permit will be required under this chapter. However, the director may require all persons responsible for collecting and remitting a hotel-motel tax to register with the department.

“Single permit—principal place of business.” Any person not in the business of renting rooms to transient guests, but who regularly rents rooms or residences at varying locations to transient guests, may operate under one sales tax permit. The sales tax permit will be issued to the taxpayer’s principal place of business. (See 701—Chapter 13 relating to sales tax permits.)

This rule is intended to implement Iowa Code sections 422.53 and 422A.1.

701—104.4(422A) Sale of business. A retailer subject to the provisions of the Iowa Code relating to the hotel and motel tax who sells the business shall file a return within the month following the sale and pay all tax due. Any unpaid tax is due prior to the transfer of title of any personal property to the purchaser and, if unpaid, becomes delinquent one month after the sale.

A retailer discontinuing business shall maintain records for a period of five years from the date of discontinuing business unless a release from the provision is given in writing by the department.

This rule is intended to implement Iowa Code sections 422.51(2), 422.52 and 422A.1.

701—104.5(422A) Bankruptcy, insolvency or assignment for benefit of creditors. In cases of bankruptcy, insolvency or assignment for the benefit of creditors by the taxpayer, the taxpayer shall immediately file a return with the tax being due.

This rule is intended to implement Iowa Code sections 422.51(2) and 422A.1.

701—104.6(422A) Claim for refund of tax. Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer to collect the tax as an agent for purposes of receiving a refund of tax. Anyone claiming a refund shall prepare the claim on the prescribed form furnished by the department.

A claim for refund shall be filed with the department within five years from the date the tax became due or one year from the date of payment, whichever is later, stating in detail the reasons and facts and, if necessary, attaching supporting documents on which the claim for refund is based. If the claim for refund is denied, and the person wishes to protest the denial, the department will consider a protest to be timely if filed no later than 60 days following the date of denial. See rule 701—7.41(17A).

This rule is intended to implement Iowa Code sections 422.73 and 422A.1.

701—104.7(422A) Application of payments. Since a combined hotel and motel tax and quarterly sales tax return is utilized by the department, all payments received will be first applied to satisfy hotel and motel tax liabilities.

All revenues received under Iowa Code chapter 422A are to be credited to the “local transient guest tax fund.” Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits. All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

This rule is intended to implement Iowa Code section 422A.1.

701—104.8(422A) Interest and penalty. Renumbered as 701—10.110(422A), IAB 1/23/91.

104.8(1) Rescinded IAB 1/23/91.

104.8(2) Renumbered as 701—subrule 10.110(1), IAB 1/23/91.

104.8(3) Renumbered as 701—subrule 10.110(2), IAB 1/23/91.

104.8(4) Renumbered as 701—subrule 10.110(3), IAB 1/23/91.

701—104.9(422A) Request for waiver of penalty. Renumbered as 701—10.111(422A), IAB 1/23/91.

701—104.10(422A) Extension of time for filing. Upon a proper showing of the necessity for extending the due date, the director is authorized to grant an extension of time in which to file a return. The extension shall not be granted for a period longer than 30 days. The request for the extension must be received on or before the original due date of the return. It will be granted only if the person requesting the extension shall have paid by the twentieth day of the month following the close of such quarter, 90 percent of the estimated tax due.

This rule is intended to implement Iowa Code sections 422.51 and 422A.1.

701—104.11(421,422A) Personal liability of corporate officers and partners for unpaid tax. If a retailer fails to pay hotel or motel tax due and unpaid on or after July 1, 1990, any officer of a corporation or association or any partner of a partnership who has control of, supervision of, or the authority for remitting the hotel or motel tax payments and has a substantial legal or equitable interest in the ownership of the corporation or partnership is personally liable for payment of the tax, interest, and penalty if the failure to pay the tax is intentional. This personal liability is not applicable to tax due and unpaid on accounts receivable. The dissolution of a corporation, association, or partnership does not discharge a responsible person's liability for failure to pay tax. Rule 701—12.15(422,423) describes this liability in more detail and also characterizes the term "accounts receivable." The statements of the rule are made with reference to sales tax, but are also applicable to personal liability for hotel and motel tax.

This rule is intended to implement Iowa Code section 421.26 and chapter 422A.

701—104.12(421,422A) Good faith exception for successor liability. For taxes due and unpaid on and after July 1, 1990, an immediate successor's liability for unpaid hotel and motel tax is extinguished if the immediate successor can show that its purchase of the business owing the hotel and motel tax was done "in good faith." See rule 701—12.14(422,423) for a detailed analysis of immediate successor liability and the "good faith" exception to that liability.

This rule is intended to implement Iowa Code section 421.28 and chapter 422A.

[Filed 5/11/79, Notice 4/4/79—published 5/30/79, effective 7/5/79]

[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]

[Filed 5/9/80, Notice 4/2/80—published 5/28/80, effective 7/2/80]

[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]

[Filed 3/25/82, Notice 2/17/82—published 4/14/82, effective 5/19/82]

[Filed 11/19/82, Notice 10/13/82—published 12/8/82, effective 1/12/83]

[Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]

[Filed 6/28/85, Notice 5/22/85—published 7/17/85, effective 8/21/85]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 1/4/91, Notice 11/28/90—published 1/23/91, effective 2/27/91]

[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/17/91]

[Filed 9/17/99, Notice 8/11/99—published 10/6/99, effective 11/10/99]